

## FINDING OF EMERGENCY ADDENDUM

## DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

The settlement order in the Hartley v. Lightbourne litigation requires the CDSS to file these amendments on an emergency basis. Failure to adopt these regulations could expose the CDSS to further litigation. The parties that are subject to the court ordered settlement agreement are the California Department of Social Services and the named petitioners. Counties, which administer the collection of CalWORKs overpayments, are not a party to the settlement and operate at the direction of CDSS which oversees the administration of CalWORKs. Currently, the State has directed the counties to comply with the court ordered settlement via All-County Letter (ACL). In the absence of regulations, the state is vulnerable to a court imposed injunction should legal action be filed alleging enforcement without legal authority. The counties, which are not a party to the settlement and not subject to the terms and conditions of the agreement could proceed in collecting overpayments from minors that will leave the State in direct violation of the court order.

Question regarding possible conflict with Welfare and Institutions Code (WIC) section 11004(h):

Section 11004(h) provides as follows:

(h) If the individual responsible for the overpayment to the assistance unit is no longer eligible for public social services or if he or she becomes a member of another assistance unit, recoupment of overpayments shall be made against the individual or his or her present assistance unit, or both.

This provision does not apply to collections from minors because a minor child is not an individual responsible for an overpayment. If an individual responsible for an overpayment (i.e. the adult recipient or payee of aid) leaves aid, the statute requires us to collect from the individual. If the adult recipient joins a different AU, and the previous overpaid AU still exists (e.g. if a two parent household splits) then the recovery can proceed against the original AU or the adult's new AU. Thus, this provision does not apply to minors who leave aid or change assistance units because the minor is not the "individual responsible for the overpayment."